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THE

MERITS

OF

THOMAS W. DORR

AND

GEORGE BANCROFT,

AS

THEY ARE POLITICALLY CONNECTED.

BY A CITIZEN OF MASSACHUSETTS.

Second Edition.

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TO THE

PEOPLE

OF

MASSACHUSETTS.

The late insurrection in Rhode Island, which was crushed by the vigor and firmness of the people of that State, and the fate of the principal leader in that insurrection have derived no small importance among us, of late, from the opinions and interference of two of our prominent politicians, one of whom has been and the other of whom seeks to be Governor of this Commonwealth. Of course, I allude here to Mr. Morton and Mr. Bancroft. The evil which such men as they can do, if they meddle with a matter of this kind from questionable motives, is vast. That evil becomes incalculable, when, by a plausible use of certain familiar and captivating general principles, the public vision is distorted from an accurate perception of the truth, and the passions become stimulated, for temporary purposes, to an attack upon the foundations of constitutional liberty. When such a tendeney is apparent, it becomes every man who can present the truth to his fellow citizens, to present it boldly; to call things by their right names; to look the false in the face and to pronounce it what it is.

It is quite true that we in Massachusetts have no special business with the affairs of Rhode Island; and that men in our State will intermeddle with the criminal justice of that community, is one of the chief complaints to be made against both the persons above named and some others. But when a faction or a party in this Commonwealth

chooses to make the internal affairs of another State the means of exciting the hatred of our own people against their neighbors, relying upon the prejudices thus aroused as the machinery by which to collect votes for themselves against those who do *not* join in the same warfare, it is time to appeal to the sober sense of the people on the subject. It is time, too, that in comity and justice to a gallant people, who have rendered a great service to the cause of constitutional freedom, we had disabused our minds of the specious nonsense that is current among us concerning their affairs. The people of Rhode Island are abused, insulted and hated by a faction among us, while they deserve the respect and admiration of every true friend of freedom; for theirs is the merit of having put down an insurrection, while at the same time they have not been wanting to the great cause of Liberty—a task, which has been well said to involve the exercise of the greatest faculties and the most exalted public virtues, that any people can possess. Much is due to such a people; much is also due to our own correct moral judgments.

I have made use of the names of Mr. Morton and Mr. Bancroft, because they are the leaders of the party that endorses and promulgates the doctrine set up in justification of the doings of Thomas W. Dorr. Both of these leaders have declared their approbation of this doctrine—Mr. Morton, in a speech delivered at a mass meeting in Providence on the 4th of September last, called to effect the liberation of Dorr from prison—and Mr. Bancroft in a letter addressed to the same meeting. I have seen no authentic report of Mr. Morton's speech, from which quotations can be made, by which he would be bound; but the leading paper of his party represented him as saying, in effect, that a majority of the people have at any time, without the action of the existing government, the power and the right, to establish a constitution; and that this was what Dorr and his associates did. Mr. Morton also asserted this doctrine in his famous "clam-bake letter," in 1842, which lies before me. The letter of Mr. Bancroft will be given to the reader in full, in a subsequent part of these pages. A concise statement of the various proceedings in Rhode Island with regard to the Constitution of the State, is all that is here necessary.

The State of Rhode Island, after the American Revolution, until the year 1842, had no other written constitution than the charter granted by King Charles II. to the

colony in 1663. This charter and some other laws had been recognized by the people and by the Supreme Court of the United States as the fundamental law of the State. One of these laws gave the right of suffrage only to such inhabitants of the State as possessed a freehold estate in land of the value of $134 and upwards, who were hence called "freeholders." The State went on prosperously and contentedly without any other Constitution, until a gradual change of the mass of the people from an agricultural to a manufacturing and commercial population, rendered an extension of suffrage desirable, expedient and just. Many persons of all classes took an interest in the subject. It was a work of time, however, to accustom a people, who had lived for nearly two centuries happily and freely under their old constitution, to the idea of a change. But such a change was inevitable, and it was right that it should be made. Among those who undertook the task of influencing public opinion on this subject, were a body of persons in the city of Providence, chiefly mechanics, who began with very honest purposes, about the year 1833, to hold meetings to discuss the subject of suffrage. This party after various successes died out in 1837. In the year 1840, persons of the same class began to agitate the subject again, and Thomas W. Dorr, a lawyer in Providence, who had been little successful in his profession, and had not been advanced in politics as he was known to have desired to be, joined this body, with some other politicians who were in quest of office and distinction. This collection of persons soon after took upon itself a regular organization, under the name of the Rhode Island Suffrage Association, and fell under the management and control of Mr. Dorr and the other leaders, who, as every body in Rhode Island very well knows, had joined it for purposes of their own ambition. The declared object of the association was "a liberal extension of suffrage to the *native white* male citizens of the United States, resident in Rhode Island." Some other leaders of the democratic party joined the association in the spring of 1841.

In June 1841, the General Assembly of Rhode Island, attentive to the course of public opinion, resolved to call a convention for the purpose of amending the charter or forming a constitution, and directed the delegates to that body to be chosen on the 31st day of August. On the 5th of July the Suffrage Party held a mass meeting at

Providence, and instructed their State Committee to call a convention for the purpose of forming a constitution, and this committee directed the delegates to their convention to be chosen on the 28th of August—three days before the choice of the delegates to the legal convention. The design of the leaders who had foisted themselves upon the Suffrage Party now became apparent. They wished to step in between the legal Convention called by authority of the Legislature, and the people, in order to give the course of things such a turn as would favor their purposes of party and personal ambition. The legal Convention was ordered to meet on Monday, November 2d, 1841; and having met and considered the subject of Suffrage, they adjourned in order to ascertain the wishes of the people until February 14th, 1842. The "People's Convention," led by Mr. Dorr and his friends, assembled November 16th, 1841, completed their constitution, and gave it out to the people to be voted for on the 27th December 1841, and the five succeeding days. On the 12th of January 1842, the "People's Convention" again assembled, counted and reported upon the votes given for their constitution, and declared that it had been adopted and should be established "by all necessary means." Dorr and his associates had previously given out that they would accept no constitution framed by the Convention called by the Legislature, however liberal it might be; and their indecent haste satisfied every body that they intended to prevent the people from adopting any constitution but their own. All the while, let it be remembered, a legal convention was in existence, preparing a constitution; and that the result of their labors would have been satisfactory to the people, if the people had not been misled, will be apparent to any one who will examine the provisions of the constitution proposed by them. Moreover the "People's Convention" was not only wholly unauthorized by law, but it represented actually a minority only of the people, if by the people is meant the whole number of white male citizens of the United States, over 21 years of age, residing in the State. This number exceeded 22,000; while only about 7,200 votes were cast, when the delegates to the "People's Convention" were chosen.

On the 21st, 22d and 23d days of March, 1842, pursuant to the directions of the Legislature, the legal Constitution was submitted to the people for their adoption. The

whole Suffrage Party, who had determined under the advice of their leaders, that this Constitution should not be adopted, and a part of the "freeholders" voted against it, and it was defeated.

The difference between these two constitutions, on the subject of suffrage, was very slight. By the "People's Constitution," "every white male citizen of the United States of the age of 21 years, who has resided in this State for *one* year and in the town where he votes for six months," was permitted to vote. By the legal constitution, every such person who had resided in the State *two* years, was allowed to vote. In the case of naturalized citizens, the freehold qualification was retained.

On the 18th of May, 1842, Thomas W. Dorr, claiming to have been lawfully elected Governor of Rhode Island, under the so-called "People's Constitution," at the head of an armed force, attempted to capture the State Arsenal in Providence, under circumstances of great terror and danger to the whole population; but was repulsed by the government and fled from the State. He rested his pretensions as to the constitution upon two grounds, both of which will be considered hereafter.

1. *That the Constitution framed by the People's Convention was the law of the land, because a constitution does not require to be framed and voted for under any sanction of the existing government.*

2. *That it was the law of the land, because it had actually been voted for and adopted by a majority of the citizens of the United States, of the age of* 21 *years, resident in the State.*

Both of these propositions were unfounded.

In the last week of June, 1842, Mr. Dorr, having collected a force of desperate persons from various points of the neighboring States, made another effort to overthrow the government of Rhode Island and to establish his own title to administer its affairs. Governor King marched a strong force of the citizen-soldiery of the State against Mr. Dorr at Chepatchet, and he again fled.

In April, 1844, Mr. Dorr voluntarily returned to Rhode Island, was indicted and tried for treason against the State, was convicted and sentenced to the State Prison for life.

In the third week of June, 1842, *before Mr. Dorr established his camp at Chepatchet to renew the war upon the State*, the Legislature had passed an act providing for

another convention to form a constitution, to be held in September, and to be composed of delegates chosen by persons having three years residence in the State, neither property, taxation, nor military service being required as a qualification. The constitution framed by this convention is now the law of Rhode Island, having been adopted by the people in November, 1842.

Let me now request your attention to the two propositions on which Mr. Dorr rested for his justification.

1. The doctrine asserted by him and now endorsed by the leaders of the democratic party who condemn his imprisonment and profess to seek his liberation, is, that a majority of the people have the right at any time, and in their own mode and without any action of the Legislature, to assemble and alter the constitution, or form and adopt a new one, as they please; and that when they have so done, the minority are bound by the change. In other words—for it comes directly to this—a majority of the people of this State may at any time inform you or me, that any article in the Bill of Rights *is* abolished; that the Supreme Judicial Court *is* done away with; that there *is* no trial by Jury; or that any thing else *has been* abolished, which they may choose no longer to have; and that we must submit to the change. This extraordinary doctrine is, curiously enough, called American Liberty. It is the most monstrous departure from the true principles of our institutions, that has ever been heard of since they came into being. It is utterly unfounded in history, reason, the rights of mankind, or in any decent theory of human freedom. It will destroy our liberties, if it prevails. It will render null and void all the precautions taken by our ancestors to establish those liberties upon the firm foundations of principle and justice.

The American doctrine of civil liberty is, that the majority of the people have the ultimate right to ordain all political relations. Possessing the sovereign power of society, the majority may alter, modify, or wholly change the form of government; and when they have so done, *if the minority are properly represented in the act*, the minority are bound by it. This doctrine, it is not now necessary to trace to its historical sources; all our institutions and the whole frame-work of society, throughout this country, are founded and depend upon it.

It is also a part of our American doctrine, that a change of government in the way of Revolution, and a

change by the way of what we call, with great propriety, an Amendment, are separate and distinct processes. In some parts of the world, the right and the act of Revolution are understood to include, in a general sense, all fundamental changes, however accomplished.

But in our system, there is another distinct and peculiar act, depending in part upon the same ultimate right as Revolution, but operating by a different process, and requiring and admitting no previous dissolution or disruption of the relations between the governed and the government. This act is the amendment of the old government, or the substitution of one fundamental law for another. It differs from Revolution in this respect. Revolution is the entire overthrow of the old government: all ties and relations between it and the people are suddenly and violently broken. Society rises up in its might and declares that the old government is no longer the organ of its will or the representative of its power,—that it has ceased to be a government,—that it is *repudiated*. Society has therefore no farther occasion or use for the old government, but is only concerned to put it out of existence as quickly as possible, and then to establish for itself a new government. In all such cases there is and must be, for a longer or shorter period, an interval of no government at all; but this interval is generally short. It often happens, as it did in these colonies, after the authority of the crown was thrown off, that the local authorities continue to exercise the powers of government, with the assent and support of the people, and they thus become a *new* government.

But amendment is a process by which a new *fundamental law* is substituted for the old. Before society can grant its assent to the proposed substitution, it must ascertain that the change is required and intended by the requisite portion of its members; this it can ascertain only through the existing government, which is its sole agent, the sole representative of the law; and it is therefore clear that in proceeding to *amend* its fundamental law, society does not and cannot intend beforehand to put an immediate end to its relations with its existing government.

There is one other doctrine of our American liberty that is not to be overlooked in this connection. While it is admitted that the majority of the people have the sovereign right to ordain all political relations, it is equally true that the form of the government and the great fundamental laws ought to be and must be acceptable to the largest

possible portion of the people. It is not sufficient to have a Constitution depend on the mere force and will of a majority: it must unite the sentiments of more than a half and one person over; it must pursue the greatest happiness of the greatest number, in order to be democratic in its scope and purposes. Again, the *rights* of minorities, the liberties of the individual must be recognised, established and made inalienable in the fundamental laws themselves; otherwise, in the course of ordinary legislation, which is only the expression of the mere will of a temporary majority, those rights and liberties will be violated every day. To avoid this violation is the very object of written Constitutions; and it may be affirmed, that if our governments were merely bound to consult and express in their laws the naked will of a majority, there would be no necessity and no sense in having any written Constitution whatever.

Now it is manifest, that from the very nature of the process of amendment, and from the very requirements of the democratic element in government (which I should rather call the principle of liberty, however,) it is absolutely indispensable that the existing government should superintend every amendment of the fundamental law; that unless the existing government takes the first step in the process, and then finally ascertains the fact of amendment, the amendment will involve a violation of the principles of liberty, and of the doctrines of American public law. It is of no consequence whether the Constitution or form of Government of any State in this Union contains a provision or form for its own amendment, or not: the existing government must in either case act in the amendment, or it cannot be lawfully established. To reduce this proposition to a practical form, I assert, that in the case of Rhode Island, although the Charter and the fundamental laws contained no provision for amending or establishing a government, the doctrine set up by Dorr and now maintained by persons in the democratic party, that a majority of the people of Rhode Island, independently of the government of the State, on their own authority, had a right to amend, or alter or establish a constitution, is contrary to our American system, subversive of the principles of liberty, and in all respects false and dangerous.

For the purpose of making it certain that Dorr went for Amendment, and not Revolution, I have examined his Message to his Legislature; in which he says, "they [the

Suffrage Party] maintain the ground that they are not only a majority, but that they have proceeded rightfully to alter and reform their government, according to well-defined principles in our republican system."

The government of Rhode Island existing under the charter, it will be admitted, was the lawful government of the State, at all times, until another government had been substituted in its place. Government does not cease its functions or relations to society, as one or another generation passes off the stage of life, for society itself is a continuous whole through successive ages. The individuals composing it depart from it and come into it, one by one, and of all ages and all conditions. An old man dies; but government is not to cease because one old man has ceased to exist; the infant that is born at the same time into the world requires its protection as much as the aged did who has just left it. It is therefore a sleepless vigilance, a never-ending agency, an uninterrupted and unbroken being. It is, moreover, the organ and the sole organ of society; it is the agent and the executive of the law: without it, society cannot act as a body politic and organized, but only as an unorganized collection of men in a primary capacity. Dorr did not undertake to have the people of Rhode Island act in this unorganized capacity. He did not pretend that the charter government *was at an end*, before his constitution had been voted for.

The government of Rhode Island, under the charter, was the lawful government of the *State* of Rhode Island; it was the representative of the political society dwelling in that State, and the sole agent by which the law of the State could act. When, therefore, it was proposed in Rhode Island to form a constitution for the State, the existing government alone could perform the necessary *legal acts*, whatever those acts were.

There are also certain other functions, which, though not coming under the head of legislative or legal acts, could be performed by the existing government alone. I will now state what the necessary steps are.

1. The existing government must practically decide when an amendment of the constitution is demanded, because they must call the convention, or other body, that is to prepare and submit the constitution to the people for their adoption. This necessity is derived *from the rights of the minority.* The existing government alone can clothe the convention, or other body, that is to frame the

constitution, with the necessary representative character. Thus the Legislature of Rhode Island, although themselves chosen under the existing constitution, by the freeholders only, were the representatives and legal agents of the whole people: they were the sole agents of that whole people, representing the minority as well as the majority, while any other agents, even if selected by a majority of the people, could not be known to the law, and could only represent a majority. A convention summoned by the Legislature would represent the minority in the State as well as the majority. No other convention would.

In order to see that this is not a mere theoretical position, it is only necessary to look at the practical operation of forming a constitution. If a majority of the people call a popular convention to prepare a constitution, it is manifest that such a convention will contain no sufficient number of persons, if any at all, who represent the wishes and interests of the minority, or feel particularly charged with them. In a juncture where the proposed change is one that divides society, though unequally, into two distinct parties, with strong and ardent opinions on both sides, it is not too much to say that a convention called by the majority only will never contain a single representative of the interests of the minority. Such a convention meets for the purpose of preparing a constitution in accordance with the wishes of a majority of the people; and the very first thing it does, is to violate or overlook some important right of the minority, some safeguard of individual liberty, which is found inconsistent with the demands of the majority. The constitution, thus prepared, goes before the people for ratification, and the same majority that had prepared it, through their exclusive representatives, vote for its adoption, and the rights of the minority are sacrificed without ever having been heard: for the constitution must be voted for as it has been prepared. Mr. Morton and Mr. Bancroft, or any body else, may call this proceeding of a majority the exercise of the democratic principle: but in point of fact, it is tyranny—gross tyranny; and if the people of this country ever suffer it to become the doctrine and rule of their public conduct, they will destroy the very principle that makes our liberty both theoretically and practically the best in the world, because it affords the greatest amount of security to the greatest number of the people. It will not do, therefore, to leave the minority unrepresented at any step in the process of forming and

establishing a constitution; if their rights are overlooked in the first, or in any stage of the business, they never can be restored at any subsequent stage. It will not do to say that because the majority are ultimately to establish the constitution by their votes, it is therefore just or consistent with any sound theory or any safe practice, to have the constitution prepared and submitted by those only who are in the interests of the majority. The minority must have in such a body those who will look after and insist upon their rights, otherwise their rights will certainly be trampled upon. When the existing Legislature summons the body that is to form the constitution, the minority will be adequately represented in that body, for several reasons.

First. The Legislature will prescribe the qualifications of the Delegates and the mode of their election: and in this a sense of public duty and decency will lead the Legislature to attend to the rights and interests of all classes of the citizens.

Secondly. The Delegates will know, that in contemplation of law, they really represent the whole people; and where this is the theory, the practice will be more likely to exhibit the same principle, than it will where every Delegate knows that he is sent only as the representative of a party.

Let us now take an illustration of this doctrine from our Massachusetts Bill of Rights. Suppose that a majority of the people wish, in framing a new constitution, to avoid the provision by which it is declared that private property shall not be taken for public uses, without being paid for. It is easy to imagine a state of society where such a wish might prevail; but probably no one would be so foolish as to deny the monstrous injustice, tyranny and danger of such an omission in a free constitution. Still, it might be a right of a minority, of the agricultural interest chiefly, and the majority might resolve to be rid of it. A convention of the people, without authority of the Legislature, is called, and in it there will certainly be no adequate representation of the minority. The constitution is framed without any provision on this subject, in obedience to the known wishes of the majority, and by that majority is adopted. Private property is thenceforth at the mercy of every future Legislature, whom any rail-road, canal or turnpike corporation can persuade into a grant of extraordinary powers for apparently public purposes. But let the existing government summon the convention, and the

constitution it will frame will be no such creature of party, for the very reason that all classes will be so generally represented in it, that they can attend to and enforce their rights.

But I do not intend to rest this part of the argument upon the practical operation of constitution-making merely. The people of Massachusetts have a strong regard for the law; and therefore I recur to the proposition that the existing Legislature, being the sole agents of the law, can alone clothe the delegates of the people with the true representive character necessary to the act of forming and proposing a Constitution to the people. This is not equivalent to saying that the Legislature shall decide what the Constitution shall be. It is only saying that the sanction of the law, or in other terms, the sanction of the whole society itself, is necessary to the act of laying a constitution before the people for their adoption. A man may not come forth from his study of a morning and say to the people, here is a constitution which I have prepared, meet in your several towns on such a day and vote for it, because it may be a very unfit constitution to be proposed, and its chance of being adopted is no proper measure of its fitness. But when the law sanctions the proposal of a particular constitution, the whole society, through its constitutional authorities, has decided that it will entertain and consider the proposal, and if a majority adopt it, it shall thereby become the fundamental law of the land. Without such previous sanction, I do not know how a constitution can become the fundamental law of any State, though voted for by a majority; for the minority have never said that they will receive it as law, after a majority shall have voted for it. It is impossible to imply their assent, where they have never been even theoretically represented. It matters not how vast a majority may be—if it contains ninety-nine hundredths of the people—the rights of the individual cannot be taken from him, unless his assent can in some way be shewn, and it never can be shewn, where he has had no opportunity of being heard. *This* is a doctrine a little antecedent in its origin to American Liberty itself—for its origin is Justice, whose foundations were laid before the world began. We may humbly hope, however, that American Liberty still rests in some degree upon those foundations.

2. The existing government must also ascertain and certify to the people the fact that a constitution has been

duly adopted. They must both ascertain its adoption, and certify its adoption. No other power or authority exists, through which the whole people can know the adoption of a constitution. A private man, invested with no legal authority, enters your house and says, "on such a day, a majority of the people met and adopted a constitution, and as one of the officers under that constitution, I require you to acknowledge and submit yourself to it." You demand the evidence of the adoption; in other words, you require to know how it became the supreme law of the land. He replies "I counted the votes of the majority by whom it was adopted." Surprised to find that your rights and liberties have thus been swept away, you demand to know who made this individual a witness of the fact that he asserts? Who made the evidence which he says he has collected lawful evidence of the fact of voting? Who gave him authority to receive and count the votes? Did he take any oath faithfully to discharge his duties, and if he did, who was authorized to administer such oath? Who prescribed the qualifications of the voters? Who knows that those qualifications were adhered to? Have the votes been certified to any central authority, any common organ of the whole people? Has that authority recognized them? Who made such certification binding proof to that authority? All these requisites you have been accustomed to look to, as the evidence of the passage of a law, and you know that there is but one source from which these requisites can be derived. Yet the officer of this new "People's Constitution," which has come upon you like a thief in the night, can answer none of your inquiries. He can only say that a majority of the people assembled together and voted a constitution, and that he was there and saw the people vote, and therefore it is now the law of the land to be maintained "by all necessary means." There is nothing left for you to do, but to turn him out of doors, knowing that the day of such a monstrous absurdity has not yet come.

Again, it is only when *the law* prescribes the qualification of voters on a constitution, and the duties of the officers who are to receive and certify the votes, that frauds can be prevented. Frauds in the votes and frauds in the officers who receive the votes can be punished only by *the law;* and if there is no punishment provided against such fraud, it is more certain to be committed than any other act to be looked for from the passions and interests of

mankind. The proof of this, furnished in the very case of the Dorr Constitution, ought to open our eyes. No authority existed in the managers of those elections—no punishment of fraud was prescribed, and none could be prescribed, because those managers never applied to the authority that could alone enact any such punishments. The consequence was, that frauds of the most frightful character were perpetrated to such an extent, that the managers of the scheme overshot their mark, and the frauds themselves became proof that a real majority of the people had never in fact voted.

But it is not necessary to pursue the argument farther. I will only remind you, fellow citizens, that the whole course of American history establishes the doctrine that a constitution can only be made binding on the whole people, when the existing public organs have superintended its adoption. When the Revolution had taken place, the power of the crown was thrown off in these colonies, but the legislative authorities generally continued to perform the functions of government. Instead of receiving their Governors by appointment of the King, the people of the several colonies chose their own Governors, and the government of each colony went on, as before, under their charters. In some States, they prepared to form constitutions, but not immediately. New Hampshire applied to the continental Congress for advice how to act, in October, 1775. In November the Congress recommended to the legislative body in New Hampshire "*to call* a full and free representation of the people, and that the representatives, if they think it necessary, *establish such a form of government*, as in their judgment will best produce the happiness of the people," &c. In South Carolina, the same course was pursued. Congress advised the existing authorities of the colony *to call* a full and free representation of the people, to establish a government. In Massachusetts, our fathers formed no constitution until four years after the Revolution. We went on as Rhode Island did, under the charter. In 1780, a convention was called by the existing authorities of the State and framed a constitution. This constitution contained no provision for its own amendment. In 1820, the existing Legislature, satisfied by petition that the people wished to form a new constitution, by a law passed for the purpose, called a Convention which framed the present constitution, and it was adopted by the people in the form and mode prescribed.

The Constitution of the United States was adopted in the same way. The people of the United States were living under a government called the Confederation. They determined to form a new government. *The Congress sitting at Philadelphia, under the Confederation,* on the 21st of February 1787, adopted a resolution, recommending to the people of the United States to send delegates to meet in convention at Philadelphia, on the second Monday of the next May, "for the purpose of revising the articles of confederation and reporting alterations and amendments therein." In May, the delegates assembled, framed the Constitution of the United States, *and reported it to the Congress* on the 17th of September, recommending that it be submitted to a convention of delegates to be chosen in each State by the people thereof, *under a recommendation of its Legislature,* for their assent and ratification. On the 28th of September the Congress passed a resolution, by which they transmitted a copy of the Constitution to *the several State Legislatures,* "to be submitted to a convention of delegates chosen in each State by the people thereof." *The Legislatures called these conventions,* and when these bodies in eleven States had ratified and adopted the instrument, *the Congress appointed,* in pursuance of the instrument itself, the first Wednesday in January 1789, for the choice of electors of the first President, the first Wednesday of February for the choice of President by the electors, and the first Wednesday of March as the day for commencing proceedings under the new Constitution. On this last day, the old government was dissolved.

The great and good men engaged in that immortal work, knew the principles of liberty and the force of precedent. Every step of their proceedings is marked by a distinct representation of *the whole people.* They knew that in reason and the nature of the thing, a free constitution can be made binding on a minority, only when the minority is represented in the act of forming and adopting it. They knew that *democracy* is, in this particular, identical with *justice;* and they so conducted every part of their proceedings, as to stamp this great precedent with indelible traces of the principle on which they founded it. Is that principle so soon forgotten?

II. The second proposition, upon which Mr. Dorr rested his pretensions, is a question of fact. He asserted that the "People's Constitution" had been voted for by a ma-

jority of the American citizens of the age of twenty-one years, having a permanent residence or home in the State. I believe that this assertion was untrue, and that, when Dorr took up arms, he knew it to be so. The facts that have convinced me of this, are the following:

1. When Mr. Dorr and the other leaders of the Suffrage Association determined to anticipate the legal convention in presenting a constitution to the people, they devised a system of voting for the ratification of their constitution, which bears upon its face proof that they intended a fraud. They provided that their constitution should be voted for, in the little State of Rhode Island, where the whole number of voters, upon their own principles, was only 23,142, through a period of six days. For the first three days, the voters were to present themselves in person, and to register their names as voting for or against the constitution. During the next three days, any person, who had voted during the first three days, was at liberty to bring in any vote or any number of votes, with the name of some person claiming to be a voter written on the face, and with his own name written on the back. These votes were called "*proxies*." No oath or engagement of any kind was exacted of the moderators, or clerks, or other officers who received these votes, and no mode was prescribed of verifying the returns which they should make.

I submit to you, fellow citizens, that no set of men ever devised a system like this, in which the broadest provision is made for the commission of fraud, without contemplating that frauds would be committed by themselves or by somebody. The whole history of balloting throughout the world exhibits nothing like it. There was not a single check, a single safeguard, a single element of certainty or security in the whole scheme. When you consider that this scheme of balloting was devised for the adoption of a constitution—that great sovereign act of the people, requiring, in order to give it any moral or legal force, to be ascertained with the highest degree of certainty—you will be satisfied that it must have been devised for the very purpose of imposition. I say this deliberately; for it is a universal course of reasoning, acted upon by all mankind, that the design and purpose of a machine, or a system, may fairly be inferred from its adaptedness to produce a particular end. This system of voting was exquisitely adapted to all purposes of fraud. Any moderator or clerk of the meeting not only could have smuggled in false votes, but

he was under no engagement or sanction, of any kind, not to do so. Any one of the 3,552 persons who were said to have voted for the Dorr Constitution in the city of Providence, could have carried in the whole 610 proxy votes which were cast there, and he might have forged one half or the whole of the names upon them, and no one was under any obligation to reject or exclude them. Let it be remembered, that this system was devised to be put in operation in a time of great excitement, and to be acted under by heated partizans, in a most furious contest.

There is no occasion to wonder that the people of Rhode Island, who did not belong to the Suffrage Party, were exasperated by this premeditated villainy. There are few people whose passions will remain cool, when they see an attempt to erect a power over their rights and liberties through a deliberate system of fraud. The people of Rhode Island have no doubt been excited, at different periods in the history of this affair. Let us beware how we do injustice to those who have been thus outraged.

2. I now ask your attention, fellow citizens, to the fact that Mr. Dorr's principles on the subject of voting and elections are no principles at all. He does not believe in the possible purity of elections. He holds that no elections are ever free from more or less doubtful votes, but that the result is always affected, more or less, by votes which ought not to have been received. In proof of this, I quote a passage from his Message of May 3, 1842, to his pretended Legislature, in which he glosses over the facts with regard to the voting for his constitution, deeming it, as he says, "due to ourselves and to our fellow citizens abroad, who entertain so lively an interest in our affairs, to pass briefly in review the history of our proceedings." His "*brief review*" is therefore addressed not so much to those who are well acquainted with the facts, as to those who are at a distance from the spot. But any one who will attend to the facts, will perceive that it is just a plausible, but extremely deficient statement of the matter. It is, however, ample in one respect, that it exhibits his principles. The italics in this extract have been adopted by me, to distinguish its best passages.

"The town clerks, and wardens and ward clerks in the city of Providence, act under an engagement; and this is the only difference between the meetings of the freemen and those of the people. This difference will create no serious objection, when it is stated that the name of every man who voted for the people's constitution was written on his ticket; and

that the ticket of every man who did not attend the polls on the three last of the six days of voting, in addition to his signature, was attested by that of some person who voted at the polls on the three first days. *These proxy votes were but a small portion of the whole.* Still further: the name of every man who voted was registered; and a copy of the register in every town and ward was duly certified with the votes. All the votes have been preserved in their envelopes for any subsequent reference. The votes were duly returned to the people's convention, and were examined and counted by a large committee. The committee reported that, as nearly as could be ascertained, the number of males in this State over the age of twenty-one years, citizens of the United States, and permanently resident, deducting persons under guardianship, insane, and convict, was 23,142, of whom a majority is 11,572; and that the people's constitution received 13,944 votes—being a majority of 4,747. *After making every reasonable allowance for questionable votes, from which no election can be entirely free, it is impossible to entertain a reasonable doubt that a large majority of the whole people fairly voted for this constitution.*"

I pass over the statements of fact in this "brief review," which I shall revert to hereafter, for the purpose of submitting to your own experience, fellow citizens, that the opinion that "no election can be entirely free from questionable votes" is as false a doctrine, as it is dangerous. You know that elections can be and are entirely free from questionable votes. You know that your election of a Governor, for instance, is never ultimately affected by a single vote that is not duly certified to have been duly cast by a qualified voter; and that nothing is wanting anywhere to the complete purity of elections, but that an honest system of checks should be enacted with an honest purpose, and should be honestly administered. But a man who does not believe that this can be done, who holds that no election is pure, who thinks that there always will be questionable votes, is the very man to dispense with all checks, and to require no engagement of any kind of the presiding officers at an election. Why should he not? Such checks and engagements, according to his principles, never keep out questionable votes, and therefore he dispenses with them, that the great result may be swelled to as large a sum total as possible, leaving it to after *guesses* to make every "reasonable allowance for questionable votes." One merit Mr. Dorr's Message exhibits fully, that his practice corresponded to his principles. But to you, men of Massachusetts, I submit, that a man who will act upon such doctrines in the matter of adopting a constitution, is fitter for the place where Mr. Dorr now is, than for that which he aspired to reach. To you I submit, that the principles avowed in this message reflect light upon what I have said was the original design, when this scheme of voting was devised.

3. The third great fact which illustrates the original design, is the suppression of the lists of voters. Mr. Dorr, in his message says, "the name of every man who voted was registered, and a copy of the register in every town and ward was duly certified with the votes. All the votes *have been preserved in their envelopes* for any subsequent reference. The votes were duly returned to the people's convention, and were examined and counted by a large committee." This message bears date May 3, 1842; and in it *Mr. Dorr wholly omitted to state that these lists and votes had previously been suppresssd by order of the Suffrage Association.* The People's Convention counted the votes in January, 1842, and authorised their Secretaries to copy any part of the registry of the votes, or the votes themselves, on the application of any person. Lists of the votes said to have been cast in the town of Newport were applied for and obtained, and the frauds discovered there will presently be stated. Foreseeing the inevitable result of any farther examination, the *Suffrage Association* countermanded the orders of the *People's Convention*, and prohibited any more copies from being taken. *This was done three months before Dorr delivered his message.* No lists were given after the 28th of January.

4. There is another fact, of equal significance. The great body of the "People's Convention" were undoubtedly well-meaning persons, and it is apparent that their leaders thought it would not do to let them know the whole story. Mr. Dorr was one of the committee of that body appointed to count and report the votes, on the adoption of the Constitution. A copy of their report, dated Jan. 13, 1842, signed by Mr. Dorr and others of the committee, is before me, printed in the Documents of Congress, page 437. [Doc. of House of Repr. No. 546, 28th Congress, 1st session.] *It says not one word about proxy votes.* It does not distinguish by words, or by figures, between the votes cast by proxy, and those cast in person by the voter. It gives a "total" of 13,944 votes for the constitution, without an intimation as to the mode of voting. The committee assert, that "*every voter has signed his name upon his ticket.*" We have seen that Mr. Dorr knew that proxies were cast, when he delivered his Message. He must have got them from the returns made to the convention, and the votes themselves proved how they were cast, because the proxies were "attested" by some person who had previously voted. Yet the body of that convention were allowed to separate, in official and per-

sonal ignorance that 3,762 votes had been cast by proxies and were included in the count, after they had resolved to establish their constitution "by all necessary means."

Among the documents above referred to as printed by Congress, is a table of the votes on the adoption of the "People's Constitution," "as counted by the committee." It is No. 73 of these documents, while the Report of the counting committee, signed by Dorr and others, is No. 89. This table is not referred to by the committee, or in any way made part of their report. But in the body of their report, they give the votes of each city and town, without distinguishing between proxy votes and others. If this table was prepared by the committee—and there seems to be no reason to doubt it—the inference is unavoidable that they *knew* what proxies had been cast, but did not choose to tell the convention. The table will be found below.

Vote on the question of the adoption of the People's Constitution, December, 1841, as counted by the Committee.

Towns.	For the Constitution.		Against the Constitution.		Total.	Proxy votes.
	Freemen.	Non freemen.	Freemen.	Non-free men.		
Barrington	28	24			52	21
Burrillville	134	149			283	79
Charlestown	49	51			100	12
Bristol	149	211			360	96
Coventry	155	250			405	162
Cranston	167	234			401	113
Cumberland	295	597			892	190
Exeter	52	82			134	67
East Greenwich	50	85	6		141	37
Foster	124	113			237	55
Glocester	193	208			401	157
Hopkinton	83	79	11	2	175	68
Jamestown	18	13			31	6
Johnston	142	206			348	104
Little Compton	19	25	17	4	65	14
Middletown	8	22			30	13
New Shoreham	102	30			132	
North Kingstown	81	170			251	102
North Providence	224	479			703	198
Newport	318	885			1,203	262
Portsmouth	67	59			126	59
Providence	1,057	2,495			3,552	610
Richmond	45	88			103	47
Scituate	208	316			524	227
Smithfield	381	945	1		1,327	449
South Kingstown	140	146			286	91
Tiverton	101	173	3		277	131
Warren	103	106		1	210	43
Warwick	308	592			900	256
West Greenwich	17	45			62	17
Westerly	107	144	1		252	76
	4,925	9,026	39	7	13,955	3,762

4. I now come to the fourth topic which should be the subject of your examination—the actual frauds committed. *First*, we will take the *proxy votes.* I have already explained the manner in which these *proxies* were cast. From Mr. Dorr's message, it appears that the whole number of persons in the State who were claimed by him as entitled to vote was 23,142, of whom a majority is 11,572, and that the votes cast *for* the Constitution were 13,944. Of these 3,762 were proxy votes! If we deduct these from the whole number of votes there remain only 10,182 votes cast in the only way that admitted of any security and in the only way in which a *Constitution* can be honestly voted for; leaving the actual vote 1,390 less than a majority. Clearly therefore Mr. Dorr's pretensions that his Constitution was actually adopted rested upon the 3,762 proxy votes.

Observe, now, fellow citizens, that this man took up arms and levied a civil war, and jeoparded the lives not only of the soldiers who were called out against him, but the lives of innocent women and children, and *did all he could* to pour upon his native State the combined horrors of civil war, upon the strength of these proxy votes. He was a member of the committee in the People's Convention, who counted the votes,* and he knew that the pretended majority was made up by these proxies, but said nothing about them at the time. He has since admitted that more or less of these votes were questionable, *but he has never told the world how many of them he knew to be false and how many he claimed to be the genuine expression of the wishes of real voters.* He has been tried and condemned for treason and has gone into the prison where he is to expiate his crime. He has died and made no sign. He has passed from civil life and never uttered a word in explanation of *what he knew about these proxies.* In one sense, they are the whole strength of his case, the hinge on which his moral justification turns. It matters comparatively little upon the question of his moral guilt, how many of these votes the people of Rhode Island can now discover to be fraudulent, though the number is large. To them and to us, there is a more important question, *what did Dorr himself know to be the case*, when he took up arms. He admits that he knew some of them to be "questionable;" *how many* he does *not* say. I have tried to judge

* See his Address to the people of Rhode Island in August, 1843.

him fairly, but to me his silence on this point is the sullen, dogged, guilty prudence, that often reveals more than all other evidence.

As an illustration of the moral quality of this man's conduct, let me suppose that an election for Governor had taken place in this Commonwealth, that the Legislature had met to count the votes, and that they had found the election must depend upon the validity of the returns from a single town. Let me suppose that the Legislature had found it to be their conscientious duty to reject the votes of that town, and that the disappointed candidate, upon the strength of his own assertion that these votes were duly cast and returned, had taken up arms and levied war, to possess himself of the government, and had planted cannon in your streets and besieged your capital? What would have been his fate? If not shot down in the actual perpetration of his guilt, he would have been reserved for trial and then *hanged;* for, more rigid than the law of Rhode Island, our statute of Treason affixes the punishment of death to that crime.

Yet the guilt of such a man, in the sight of Heaven and in the moral judgment of mankind, would not have been half so great, as was that of the man who had a chief share in devising the scheme on which the doubtful votes were cast, who knew the whole extent to which those votes affected his pretensions, and who, upon the rash responsibility of his own unexplained assertion that they were a genuine foundation of title, proceeded to levy war against his country, and to march through the slaughter of his fellow citizens to the place of his ambition.

Secondly, let us examine the facts which show what was done by means of these *proxy votes.* The Dorr constitution, in providing the mode in which it was to be adopted, permitted any person to vote on the last three days by proxy, who "*from sickness or other causes*," might be unable to attend on the three first days of voting. If we take the little town of Tiverton, we find that it cast for this Constitution, as it is said, 274 votes, of which 131 were proxies. It is simply incapable of belief that nearly one half of the males in that town, who wished to vote for this constitution, happened to be unable from "sickness or other causes" to attend the polls on the first three days of voting. There is therefore but one solution of the 131 proxies—that many of them were cast in the names of persons who were unable to attend *because they had no*

existence; and possibly this was one of the "other causes" contemplated by the framers of this great scheme. It is easier to believe that men, who devised a system of great adaptedness to fraudulent use, should have committed frauds, than it is to believe that 131 white males existed in the town of Tiverton, who, in a time of most intense excitement, with decided wishes on the subject of that excitement, had been kept away from the polls three days by "sickness or other causes."

The town of Newport has been mentioned, as the place where some investigation was made into the votes said to have been cast for the Dorr Constitution. The result of that investigation was that out of 1207 votes, 552 were improperly given, even on the basis of the friends of that instrument.

This number was composed of the following classes:

Unnaturalized Foreigners	251
United States Soldiers	53
Residents of other Towns	40
At Sea, at the time of voting, in 17 different vessels	56
Absent from the Town at the time of voting	30
Minors	16
Recorded as having voted twice	19
Voting under variations of the names of residents recorded as having previously voted in their proper names	6
Names of persons unknown to many of the best informed persons in each ward, and by them believed not to be inhabitants of the city	61
Names used without the consent of the parties	13
Colored persons	5*
Pauper	1
Insane	1
Total	552

Mr. Jacob Frieze, a citizen of Rhode Island, who was a member of the Suffrage Association until he quitted it in disgust at their proceedings, gave the following testimony, in an affidavit sworn to by him, April 6, 1842.

* The framers of the People's Constitution never designed to extend the right of voting to any but the *whites*.

"During the last three days, or days of proxy voting, I was informed by the warden or moderator and clerk, [at the 3d ward polls in the city of Providence] that a large number of votes were deposited in the ballot box, which had been received from seamen and others, then absent, previous to their departure; and I have reason to suppose that, from persons who did not attend the polls at all, in that ward, some two or thee hundred votes were cast, or said to be cast. Similar proceedings, it was understood, were had throughout the State." He also says, "No evidence was required, of the qualification to vote, of any one who offered, except his own yea, or nay; and even of foreigners, strangers, or otherwise, no naturalization papers, or other evidence of citizenship, was required."

[Cong. Doc. page 664.]

Mr. John S. Harris, the Secretary of the "People's Convention," in a deposition taken by Mr. Hallett, for the Committee of Congress, admitted that frauds were committed in Newport. "It is but just to say, that there were votes received in that town, as I have been informed, which ought not to have been." [Cong. Doc. page 104.]

There is a variety of other facts all conclusively leading to the conviction that large numbers of the proxy votes must have been fraudulent.

At the first election held under the so-called People's Constitution, when Mr. Dorr was to be voted for by his party as Governor, when the whole excitement was unabated, only 6,417 persons voted—a reduction of 7,527 from the alleged vote for the constitution. The Dorr constitution was voted for in December, 1841. When in March, 1842, the legal constitution, prepared by order of the Legislature, was voted for, it encountered two classes of opponents; *first*, the suffrage party, who asserted that they had already established a constitution over the State; *secondly*, the "freeholders," who were attached to the old form of government and opposed to any change. This last class threw about 1,000 votes. Both of these classes used great exertions to bring their voters to the polls, in order to defeat the legal constitution, and they succeeded by a majority of 676. But the whole number of votes polled was only 16,702—for the constitution 8013—against it 8689, being 5,255 votes less than the votes claimed to have been cast for the People's Constitution. At the same time that we look at this vast dis-

crepancy, we should bear in mind that the voting qualification required under this legal Constitution, was the same as that required under the People's Constitution, with a slight variation which could not, in a State like Rhode Island, have made any serious difference in the vote. Again—in the town of Newport 1203 votes were claimed for the People's Constitution. The aggregate vote of both parties on the legal Constitution, three months afterwards, was only 1091, and the suffrage party, after the most strenuous exertions, cast only 361 votes against it.

These facts are incapable of any rational explanation that can lead to any confidence in the 3,762 proxy votes, on which Mr. Dorr took up arms. They show that it is impossible that 13,955 voters should ever have existed in the State, in favor of the People's Constitution. The repeated tests to which that monstrous assertion was brought by these independent but accurate trials, resemble the processes by which a sum in arithmetic is *proved or disproved;* and it should not be forgotten, when we have arrived at this result with regard to Mr. Dorr's proxy votes, that he stands affected morally not only with all that he knew at the time those votes were cast and counted, but with these various proofs of their fraudulent origin; because these repeated tests of the integrity of those votes had all occurred before he took up arms. His attempt to capture the State Arsenal, in Providence, was made on the 18th of May, 1842.

Let any one take these facts and ponder them, and then ask himself what does Dorr's case present? It presents a man claiming that 3,762 votes were cast by proxy, in a mode which he had helped to devise, and a mode incapable of every thing but fraud; who counted and therefore knew how these votes were cast; who has admitted that more or less of them were "questionable;" who has been forever silent as to his real knowledge; and who had demonstration after demonstration forced upon him that he was asserting what never had any real existence; yet who, resting solely upon these votes, raised the standard of rebellion and levied war upon his native State, and proposed to shoot his fellow citizens. There is but one verdict, but one judgment to be rendered in the case, but one solution of the facts—that this man *knew*, and now knows, that he was attempting to force down the throats of his fellow citizens a great fraud; that he knew and now knows, that his cannon were planted and his men arrayed, for the purpose of imposing a great falsehood upon a whole

people, involving the entire foundations of their rights and liberties. He stands before the world a convicted traitor. But no great and chivalrous intent lies at the foundation of his legal offence; no dazzling and splendid course, run in a bold and free spirit, closes in treason against his country. He is now simply a man who sought to enforce upon others as truth, what he must have known to be a fraud. He is like any other criminal who has done the same sort of thing—just as worthy of sympathy, public or private—just as dignified a sufferer, just as great a martyr.

It has been no part of my object to embitter the feelings of any one against Mr. Dorr. I would not do any thing whatever, that might have the slightest effect in putting off the day when the sovereign people of Rhode Island shall see fit to extend their clemency to him, if that day is ever destined to arrive. We, in Massachusetts, have nothing to do with his punishment—we can have no resentments to gratify upon his person. To us he was at first merely a man who had committed an atrocious offence against a political society of which we are not members. He is now paraded before our sympathies as a great martyr in the cause of Liberty, and a letter is written from our midst, by a man claiming the position of a scholar, a historian, and a candidate for our chief magistracy, demanding the release of this criminal, in lofty phrase, in the name of all holy and elevated things, as of an injured man. It is not to be endured, that a single mind in Massachusetts that can be reached by the facts, should be left exposed to the venom which it pleases the writer of that letter to distil. We may forget Mr. Dorr, and care nothing about him; we cannot and ought not to forget the man who seeks to pervert our judgments, to dazzle us with his seemingly brilliant periods into compassion for guilt, to excite our hatred against those who have stood on the outermost bulwark of social order in defence of the law. We should remember that all the demagogues on earth can give us no compensation for the injury which they do by impairing the tone of our own minds. We should excuse nothing to a spirit of party, admit no palliatives in a politician's tricks of trade; but fixing the steady eye of an unclouded judgment upon every propagator of such falsehood, we should make him feel that, however he may dress himself in the phrases of a meretricious learning, he can impose upon no honest man.

Of the facts which I have thus laid before you, it would

seem to be impossible that George Bancroft can be ignorant. Some of his partizans who went from this city to attend the mass meeting held at Providence, on the 4th of September, for the liberation of Dorr, may have supposed that Dorr is a sufferer for his political opinions. Mr. Bancroft can be supposed to labor under no such ignorance. The facts of the case exist in a variety of public documents and publications, and the most damning of them all are contained in the documents collected by his friend, B. F. Hallett, for a democratic committee, and printed by a democratic majority of the House of Representatives, at Washington. Yet Mr. Bancroft incites his fellow citizens to go to the mass meeting, at Providence, there, upon the soil of Rhode Island, to abuse, villify and insult the government of that State, because it chooses to punish a fraudulent violator of the peace; and the alarming feature of all this is, that men can be found in Massachusetts willing, for the sake of "political capital," to go into an independent, sovereign State, and there interfere with the course and purposes of her criminal justice, administered through her own tribunals. We, in Massachusetts, have nothing whatever to do with Mr. Dorr's liberation. If any one has an opinion that leads him to desire it, he has a right to express that opinion and desire in his own State; but the moment he goes upon the soil of Rhode Island, to express it there, that moment he is engaged in an act, within a foreign territory, of hostility to the government of that territory; and though he may call it a mere act of sympathy, it is in fact a direct interference with the public justice of a country whose affairs he has no right to touch. Equally objectionable is it, to write letters into another State, to excite its people against the judicial acts of their own government: but when such a letter is written containing a series of statements, which exhibit a purpose to confound moral distinctions, in the attempt to influence public opinion against those who have been called to the duty of punishing a criminal, the enormity of the sympathy rises to a level with that of the crime itself.

BOSTON, AUGUST 30, 1844.

Gentlemen—I cannot be at Providence on the 4th of September; but my heartiest sympathy goes with you for THE LIBERATION OF DORR. You may freely concede, that in the late efforts of the majority in Rhode Island to obtain their inalienable rights, there were faults of conduct on both sides; your design still commends itself to humanity and justice.

For the first time in the history of the world, solitary imprisonment at labor for life has been made the punishment of actions that were but the expression of political opinions. The position of Dorr was forced upon him by the suffrages of many thousands, who, in the judgment against him, hear a sentence against themselves, and share his condemnation, though not his prison.

The trial of Dorr was transferred from the neighborhood of his alleged offences, to a county of more decided political hostility. In the course of the trial his defence was checked by doctrines of law which would make the inalienable rights of man "*belligerent*" rights, and would give legal perpetuity to despotic authority throughout the world. The jury was selected with such persevering discrimination, that its verdict, though it may serve as a party triumph, cannot be held by impartial men a sufficient groundwork for a sentence of civil death.

The royal charter lingered beyond its usefulness; Dorr did but reveal the fact that its life was gone, past all resuscitation even by martial law. In the midst of their triumph, its worshippers confessed to one another that it was hopelessly dead. And shall Dorr be sacrificed to grace its funeral? Barbarous nations, it is true, slay a captive over the grave of a departed chief; but shall their custom be imitated in a civilized and Christian land?

You may demand the liberation of Dorr in the name of the people of Rhode Island, of whose will he had reason to believe himself the servant.

You may demand it in the name of the American people, who are still firm in the faith that government derives its just powers, not from the authority of rulers, but from the consent of the governed.

You may demand it from the wisdom of your intelligent population, who must perceive that AMNESTY is the talisman which alone can restore calm to the troubled spirit of your citizens.

You may demand it under the sanction of legal precedent; for when Leisler, of New York, had, under similar circumstances, been likewise condemned for high treason, the attainder was unconditionally reversed by the British parliament, and the reversal was approved by the Legislature of New York and by all posterity.

You may demand it by the influence of generous feeling in every right-minded man, who will scorn to wreak needless vengeance on a solitary and defenceless individual.

You may demand it, even of his enemies, in the name of that Christian religion which blesses the merciful, serenely rebukes malice, hatred, and revenge, and teaches forgiveness to those who would be forgiven.

Nor can his liberation be refused from fear of his partisans. They have made themselves citizens under the new constitution. They ask his liberation under that constitution, which the act of clemency will itself affirm.

Nor can it be refused on the ground that Dorr himself will not acknowledge the new constitution. He has acknowledged it, by pleading before its tribunals for his life. He has authorized his friends to make no appeal for him but in a legal and constitutional way. He is at present at variance with his persecutors on nothing but on the light in which past transactions should be viewed; and on that the coming generation will sit in judgment.

I know there are many who confess that Dorr should be liberated, and yet would not open his prison doors till he condemns himself. But shall a man in the nineteenth century, and in an American land, be locked up to labor in absolute solitude; cut off from civil life, without book, or journal, or paper; never hearing the voice of a known human being; debarred from intercourse with friends even by letter; shall he be so confined for the purpose of breaking his spirit and winning a triumph over his sense of honor? This is not punishment, but torture; and the civilized world reprobates the use of torture. It might gradually quench his

mind, but what a victory that would be for a commonwealth to win over one of her own sons!

Dorr has made an appeal, as your constitution permits, to the people of Rhode Island. Let your purpose in his behalf be as strong as a mother's love, which waters cannot quench nor floods drown. At your elections raise no question but THE UNCONDITIONAL LIBERATION OF DORR. Compel every candidate for every office to make a record of his choice between mercy and revenge. Solicit the aid of every man who has any thing warm under his left breast. Persevere till, in the legal and constitutional way, you effect his freedom. Faithfully yours,

GEORGE BANCROFT.

To Messrs. Benjamin Cowell, Thomas F. Carpenter, W. R. Danforth, Hezekiah Willard, L. C. Eaton, Levi Salisbury, W. S. Burges, Providence.

Seldom will you find more studied insinuations, marking a higher degree of depravity in the intention, than are here contained. A man of a skilful pen, careful about the impressions he should produce, might still have written a letter in favor of Dorr's release, without employing ideas and statements purely false. But Mr. Bancroft seems to value and employ ideas as they suit his purposes. "The late efforts of the *majority*"; "the punishment of actions that were but the expression of political opinions"; "the position of Dorr forced upon him by the suffrages of many thousands"; that the trial was unfair; that Dorr is sacrificed to grace the funeral of the charter; the various lofty and holy things in the name of which his liberation may be demanded; the idea that Dorr has submitted himself to the new constitution, but that his enemies, not content with this, animated by a spirit of persecution, torture him both in mind and body; all these are specimens of a style that is possessed in an equal degree by no other demagogue in this country.

Mr. Bancroft represents the actions of Dorr as "but the expression of political opinions." What some of Mr. Dorr's opinions were, we have seen. We have seen that believing elections always affected by more or less "questionable votes," he devised a system of voting on a constitution under which frauds were committed, and then with arms and violence sought to make his fellow citizens accept the constitution thus voted for. When did Mr. Bancroft ever hear of a crime that was not in this way the expression of an opinion? What is all the wrong that has ever vexed the world, what is every mean and fraudulent action, what is every premeditated villainy, but the expression of the opinions of the wrong doer? A man holds the opinion that crime may be committed, and he proceeds forth-

with to its commission. Does his opinion change the nature of the act? Perhaps it has happened to Mr. Bancroft, as he was once a preacher, to preach upon the great doctrine of Christian morals, that out of the *heart* proceedeth all wickedness. Let him look back into his sermons, and he will probably find that he has never, with all his talent, matched the present case for an illustration of the intimate connection between a man's acts and his opinions.

"The position of Dorr was forced upon him," says Mr. Bancroft, "by the suffrages of many thousands." Unhappy victim! He merely prepared a scheme for the registration of votes which were never cast by real voters, he merely assisted to carry it out, and then when others, who were weaker if not less wicked than he, fell into the snare, and he with violence aimed to enforce as true what he had helped to make false, these "suffrages" forced him into his unfortunate position. Cruel voters! whether you existed, or did not exist, you were too cruel; but the most cruel of you all were the men of straw, who made his very acts of beneficent creation recoil upon the head of your wise creator.

The unfairness of Dorr's trial will scarcely be believed in, though asserted by Mr. Bancroft, when the reader remembers that it took place before the Supreme Court of Rhode Island—a high tribunal, which the framers of the so-called People's Constitution did not propose to touch, and which they left as they found it, while they proposed to remodel every other part of the government.

The idea of demanding the liberation of Dorr in the name of the people of Rhode Island, "*of whose will he had reason to believe himself the servant*," presents another of those pleasing fictions, which flow with so much grace and harmony from the pen of the historian. The people of Rhode Island might reply to the demand, that they could not grant the liberation, inasmuch as Mr. Dorr had no better reason to believe himself their servant, than a counterfeiter has to believe himself the servant of the bank whose note he undertakes to utter. In the same manner, when his liberation is demanded in the name of the American people because "they are still firm in the faith that government derives its just powers, not from the authority of rulers, but from the consent of the governed," they might very well decline to have their name used upon the occasion, inasmuch as the faith which they are

said to hold, teaches them, that government derives no authority and no existence, from a *part* of the governed aspiring to govern by *fictitious majorities*, never ascertained by the law.

Equally silent might be the wisdom of the intelligent population of Rhode Island, when the same demand is made from that sanction, upon the ground that "they must perceive that amnesty is the talisman which alone can restore calm to the troubled spirit of their citizens;" for, however musical and charming the sentence is, that popular wisdom might answer, that it has its doubts about enlarging a man who denies the authority of the government of the State, and who, in the course of his assertion of his own title, collected a band of ruffians that expected, in the sack of Providence, to plunder its banks and violate its women.* "Legal precedent," too, might decline being pressed into the same service; for it might be wholly unable to see how the grant of a pardon to one criminal constituted a *legal precedent* for the grant of it to another. Nay, it might admonish the historian, that he used language without meaning; but this, upon second thoughts, it would probably waive, considering that the

* "Whatever were Dorr's intentions, had the city been captured by him, we know not. But several gentlemen, residents of the city, were warned by others friendly to them, and in the secrets of the camp at Chepachet, or assuming and presumed to be so, to leave the city by a certain time; or, if they would not themselves leave, at least to send out their families. That many of Dorr's adherents expected the city to be given up to plunder for twenty-four hours, and its fair daughters into their brutal hands, is known from their own declarations, and might have been fully apprehended from their well known character. And these are men whom Dorr himself could not have controlled, had he possessed the inclination to do so. The prisoners captured were, most of them, this class of men, whose tender mercies would have proved cruelties; and whose triumph, had it occurred, no doubt would have been characterised by the most ferocious brutality; for it cannot be disguised, that, by far the greater portion of the Dorr party, abandoned by most of the respectable suffrage men, had become neither more nor less than an irresponsible and unprincipled mob. This statement challenges denial; and so true is it, that even the officers in command in his camp, and who surrounded his person, with two or three exceptions, were men with whom no reputable person who knew them, even of their own party, would associate.

In making these statements, the writer has no spleen to vent, and no private or party object to advance. They are made because they are known to be true; not only by the writer, but by this whole community; and would, if necessary, be attested by two-thirds of the suffrage party of Rhode Island; and to them he would confidently appeal, for the truth or falsity of the foregoing work, as it relates to the doings of that party, and the manner in which they have been deceived and imposed on by a few political demagogues, with Thomas W. Dorr at their head; and who came in at the eleventh hour, to promote their own objects of private ambition." [History of the Suffrage Question, by Jacob Frieze, formerly a member of the R. I. Suffrage Association.]

historian employs language so that it may mean whatever it is convenient to have it mean, and is therefore not bound by the meanings of others.

The generous feeling of every right-minded man might also decline its aid; for though it would scorn, no doubt, to wreak needless vengeance on a solitary and defenceless individual, it has been taught that self-defence is a law and duty of our being.

Finally, Christianity itself might refuse to join the throng, for it might say that it was busy and could not come—busy in teaching men to look for a time when fraud, and violence, and bloodshed shall cease; in teaching them that prisons and punishments and penalties are among her necessary agents in her great work, and that rulers are set for a terror to evil doers, and the praise of them that do well.

Mr. Bancroft tells us that Dorr has acknowledged the new constitution, by pleading before its tribunals for his life. Did he ever read that singular production of wrong-headed arrogance and folly—the address made by Dorr to the Court, when asked what he had to say, why sentence should not be pronounced? He found fault with the Court, because they would not permit him to set up his own authority against that of the government; and coolly informed them that "the process of this Court does not reach the man within."

But Mr. Bancroft, with all his skill as a writer, in the very next paragraph of his letter, authorizes all the world to believe that Dorr has *not* acknowledged the authority of the government, but that he is kept in prison for this reason. All the world knows that if Dorr will acknowledge the government of the State, and give security to keep the peace, he can be enlarged. This he refuses to do.

"Shall a man in the nineteenth century, and in an American land," exclaims Mr. Bancroft, "be locked up to labor in absolute solitude"? Yes, he shall, whenever he commits a crime against society. So says the law of most countries, in this century; so it has said in former times, and so it will say, to the end of time, unless a better mode of checking crime is discovered. Moreover, it has been the general opinion of mankind, at all times and in all lands—and there seems to be no good reason to make it otherwise in the nineteenth century, or in an American land—that no crime exceeds that of a man who raises a civil war against his country for purposes of his own am-

bition. If he is compared with the poor wretch who forges a promissory note, that takes or threatens no man's life, he towers as a giant above a pigmy; for in *his* crime are involved death and slaughter and public pillage, and that last awful outrage which exceeds them all.

The closing paragraph of this letter is not, as some other parts of it are, a fit subject of ridicule. As well might the dark malignity that throws a firebrand into a neighbor's house, be spoken of in a satirical spirit. There is a grave condemnation that must follow the author of such a sentiment, in the minds of all thinking men. Writing from Massachusetts and addressing the people of Rhode Island, Mr. Bancroft tenders to them this advice: "AT YOUR ELECTIONS, RAISE NO QUESTION BUT THE UNCONDITIONAL LIBERATION OF DORR." Attend to no call of your country, take no heed of the great questions of her policy, forget her honor and the interests of mankind, and, nourishing forever the passions through which that convict aimed to mislead you, assert, in the face of history and before all the world, that he is an honest and injured man, though you know the assertion is untrue. Prostrate the dignity of your State before the demands of a faction that never would have bestowed a thought upon your interests, but for their own purposes. Suffer no old wounds to heal; listen to no voice of reconciliation that comes to you from the midst of your own household; forget no one of your errors, but repeat them all; make strife and anger and ill-will the inheritance of your children, and fight on till they have grown into the controversy about the merits or demerits of a convicted traitor. Do this, men of Rhode Island, that I, George Bancroft, in the contagion of passion and prejudice that spreads from your borders into our own Massachusetts, may find the state of thought and feeling most subservient to my own ends.

Mr. Bancroft is pleased to tell us, that "the coming generation will sit in judgment" upon past transactions. Yes, and there is a judgment of the present age. Slowly, but with unerring certainty, it gathers the materials for its estimate of character. It passes by, with unfailing sagacity, all outward accomplishments, to reach the *man* that is behind them. It is not the applause of partizans, by which it gauges him. It looks through all that he says and does, to see if he *knows* better than he says and does. If it finds that he knows the principles of Liberty, but perverts them; that he reads history to fit it, with a

specious application, to false issues; that he can reason truly, but chooses to reason falsely; that he knows the power of deception that lies in words and phrases, and chooses to employ it on the unreflecting, it records of him a judgment which no after age will reverse. The greatest earthly injury that a man can do to himself, is to incur that judgment; for it is around him and upon him, like the atmosphere, every moment of his life.

APPENDIX TO THE SECOND EDITION.

The foregoing pages were written and published from a desire to diffuse correct information upon a subject, on which there have been and still are deliberate attempts to mislead the public mind. Since the first edition of this pamphlet was printed, I have understood that subscriptions have been promoted among the people of this Commonwealth, by persons in the democratic party, in order to raise a fund to defray the expenses of carrying to the Supreme Court of the United States certain law-cases from the State and Federal courts in Rhode Island, in which attempts were made to set up the validity and authority of the Dorr government. In these contributions, it is said, the donation of each individual is limited to *twelve cents*—a powerful and an artful mode of enlisting popular sympathy, as well as of raising considerable sums. If this statement be true, the fact furnishes an additional motive, to the lovers of truth and sound principles, for diffusing both the facts and the true principles, widely and in a cheap form. If the people of this Commonwealth are to be subject longer to the delusions which politicians of an unscrupulous school find their account in encouraging, it will be our own fault if our notions of government and law become so entirely unsettled, that our principles will hang about us as loosely as the veriest radical can desire. We had far better save our money and our common sense; for, bestowed upon this object, they will both be thrown away.

The facts stated in this pamphlet were all drawn from the authentic sources of public documents, chiefly from the documents printed by Congress, and from publications made by responsible citizens of Rhode Island, and never refuted or denied. An *Address to the People of the United States* has since appeared, over the signatures of some of the most eminent citizens of Rhode Island, which confirms all the facts stated by me upon previous authority. This document is signed by Messrs. N. R. Knight and William C. Gibbs, former Governors of the State; by Messrs. Francis and Simmons, the present United States Senators from Rhode Island; by Messrs. Cranston, Potter and Tillinghast, now or lately members of Congress; by Mr. John Whipple, an eminent lawyer, at the head of the Rhode Island Bar: by Professor William G. Goddard, of Brown University; by Albert C. Greene, late Attorney General and Joseph M.

Blake, the present Attorney General of the State ; by John Carter Brown, an eminent merchant, and by several other persons, among whom is Moses B. Ives, the *brother-in-law of Thomas W. Dorr.*

I cannot but commend the republication of this document to those who desire to correct the tone of public sentiment upon the affairs of Rhode Island. It contains, among other things, the following statements.

13. "Having thus established a Constitution, the people of Rhode Island began to hope that their troubles were drawing to a close. Both parties registered and voted under this Constitution, and a number of the Dorr party, who were elected to the Legislature, took the oath required by the Constitution to support it. At this juncture, T. W. Dorr, who had been hanging for some time upon the borders of the State, came voluntarily and openly into the city of Providence. He was immediately arrested for High Treason, in levying war against the State, and committed to prison. He had been demanded by the Government of Rhode-Island from the Governors of other States, and a large reward had been offered for his apprehension ; if coming into the State he had been suffered to go at large, without being arrested, what would have been thought of the government of Rhode Island?"

14. "The Constitution of Rhode Island provides, Art. 1, Sec. 9, 'That all persons imprisoned ought to be bailed by sufficient surety, *unless for offences* punishable by death, or by *imprisonment for life*, when the proof of guilt is evident, or the presumption great.' Treason against the State of Rhode Island, by a law passed in 1838, before any of these troubles began, was declared "to consist in levying war against the same," and was made punishable by imprisonment for life. By the law of the United States, and of most of the other States, this crime is punishable with death. As no Judge could doubt that T. W. Dorr had levied war against the State, he could not be admitted to bail."

15. "T. W. Dorr has been tried by merciful Judges, and one of the jury which convicted him was one of the Convention which framed the Constitution under which he claimed to be the rightful Governor. He confessed on his trial, and by evidence produced by himself, and drawn forth by his own cross-questioning, proved that he performed those acts of open violence which constituted the levying of war. How then could he ask or hope for an acquittal, unless the Judges could prove false to that gov-

ernment under which they held their commissions, and which they had sworn to support ?"

16. " T. W. Dorr was convicted, not under the ' Algerine act,' as it has been called, but under the act of 1838, for levying war against the State ; he has been sent to the State prison in pursuance of the same law ; and there he remains with no discrimination of treatment from that of the other prisoners."

" When it is considered that the crime of High Treason is the greatest crime which can be committed against society, and that it was committed by the levying of war against Rhode Island, when there was no pretext which could palliate it, and the extension of suffrage had been offered and rejected, and another act of the Legislature was passed with a view to the same object, we hope, if there is to be any sympathy among the citizens of other States, in relation to the troubles in Rhode Island, that it will be a sympathy for violated law, and a suffering community, and not for those who are receiving the punishment which the law has provided for their offences."

N. R. KNIGHT,
WILLIAM SPRAGUE,
WM. C. GIBBS,
MOSES BROWN IVES,
JOHN BROWN FRANCIS,
JAMES F. SIMMONS,
HENRY Y. CRANSTON,
E. R. POTTER,
JOSEPH L. TILLINGHAST,
R. B. CRANSTON,
GEORGE ENGS,
NATHANIEL S. RUGGLES,
JOHN WHIPPLE,
WILLIAM G. GODDARD,
RICHARD K. RANDOLPH,
HENRY BOWEN,
ALBERT C. GREENE,
JOSEPH M. BLAKE,
S. FOWLER GARDNER,
NATHAN B. SPRAGUE,
JOHN CARTER BROWN,
ALEXANDER DUNCAN,
CHARLES JACKSON.

Providence, October 21, 1844.

"On the 26th of June, 1844, Mr. Randolph, a Senator from Newport, presented to the Senate of Rhode Island, a petition from Sullivan Dorr, Esq., praying for the liberation of his son, Thomas W. Dorr, who had been convicted of the crime of treason against said State. Mr. Randolph stated that he had had an interview with T. W. Dorr, and from that interview he could not support the petition. Mr. R. then moved that the petition be laid on the table, which motion prevailed.

At the meeting of the Senate, in the afternoon of the same day, Mr. Ballou, a Senator from the town of Cumberland, called the attention of the Senate to the subject. He said he had been requested by Mr. T. W. Dorr, '*to disclaim all knowledge of the petition on his part, and in his name to protest against any action by the General Assembly upon said petition.*'

The words above in italic, were reduced by me to writing at the time, and shown to Mr. Ballou, who did not object to the same." GEORGE RIVERS,

Clerk of the Senate of Rhode Island.

Providence, Oct. 21, 1844.

Mr. Randolph has also published a statement, showing that after this petition was placed in his hands, he had an interview with Dorr and with Mr. Atwell his counsel, in which they both endeavored to persuade Dorr to take the oath to support the present Constitution of the State, Mr. Randolph stating to him that if he would give some assurance that he would take the oath, he, Mr. Randolph, would do all in his power to procure a pardon from the General Assembly, before he went to the penitentiary. Mr. Randolph states that he told Dorr he was desirous that he should not submit to the indignity of going to prison, and that the law would be vindicated by his conviction and sentence, if he would take the oath to support the Constitution. Mr. R. thus concludes his statement.

"When I left him, it was understood between us, that he would consider the matter, and give me an answer at a future time. After reading his father's letter, Mr. Dorr requested me to permit him to see the petition. I shewed it to him. He was much displeased with it, and was unwilling that it should be presented, at the same time he asked me if I did present the petition to say that he knew nothing of it, and had no hand in its being written or presented. On the day but one after, I saw Mr. Atwell and he informed me that Mr. Dorr had desired him to say to

me, that he would do nothing about it, which I understood to mean that he would not take the oath."

"I stated the facts which I have here detailed to the Senate, presented the petition and asked that it might lie on the table. I remarked, at the time, that I should not advocate the petition, unless I had some assurance that if he was liberated he would cease to agitate the State on this subject."

"I certify the foregoing to be true."

RICHARD K. RANDOLPH.

October 23, 1844.

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